

**292.412 Registration of securities Internet Web site operators.**

- (1) This section applies to registrants operating an Internet Web site pursuant to KRS 292.411(1)(r).
- (2) Broker-dealers registered pursuant to KRS 292.330 and operating an Internet Web site, pursuant to KRS 292.411(1)(r), shall make an annual notice filing with the department on a form prescribed by the commissioner, but shall be otherwise exempt from the provisions of this section.
- (3) In lieu of the registration requirements of KRS 292.330, a person may apply for registration with the department as an Internet Web site operator by filing an application on a form prescribed by the commissioner that shall include the following:
  - (a) The Internet Web site operator is a business entity organized pursuant to the laws of Kentucky, authorized to do business in Kentucky, and engaged exclusively in intrastate offers and sales of securities in Kentucky;
  - (b) The Internet Web site operator is solely engaged in the business of operating an Internet Web site in accordance with this section and KRS 292.411(1)(r);
  - (c) The identity, location, and contact information for the Internet Web site operator and any director, executive officer, general partner, managing member, or other person with management authority designated by the commissioner;
  - (d) A statement that the Internet Web site operator or any director, executive officer, general partner, managing member, or other person with management authority of the Internet Web site operator has never been subject to any conviction, order, judgment, decree, or other action specified in the Securities Act of 1933 Rule 17 C.F.R. sec. 230.506(d); and
  - (e) Any other documents, certifications, or information the commissioner may require to administer and enforce the requirements of this section.
- (4)
  - (a) An Internet Web site operator registered pursuant to this section shall:
    1. Charge a fee to an issuer for an offering of securities on the Internet Web site only in a:
      - a. Fixed amount for each offering;
      - b. Variable amount based on the length of time that securities are offered on the Internet Web site; or
      - c. Combination of the fixed and variable amounts; and
    2. Comply with any other requirements that the commissioner, by administrative regulation or order, determines is necessary or appropriate in the public interest or for the protection of investors.
  - (b) An Internet Web site operator registered pursuant to this section shall not:
    1. Offer investment advice or recommendations;
    2. Solicit purchases, sales, or offers to buy the securities offered or displayed on its Internet Web site;

3. Compensate employees, agents, or other persons for the solicitation of securities or the sale of securities displayed or referenced on the Internet Web site;
  4. Be compensated based on the amount of securities sold;
  5. Identify, promote, or otherwise refer to any individual security offered on its Internet Web site in any advertising for the Internet Web site; or
  6. Hold, manage, possess, or handle purchaser funds or securities.
- (5) Each application filed pursuant to subsection (3) of this section shall be accompanied by the filing fee established by the commissioner and a surety bond filed with the application in an amount satisfactory to the commissioner, but no less than fifty thousand dollars (\$50,000). The surety bond shall be in favor of the Commonwealth and shall secure payment of costs, fines, and damages to any person determined by the commissioner, after a hearing conducted in accordance with KRS Chapter 13B, to be aggrieved by an Internet Web site operator's violation of this section and KRS 292.411.
- (6) Registration as an Internet Web site operator shall expire annually. Subsequent registration may be issued upon filing of a written renewal application, on a form prescribed by the commissioner and upon payment of the renewal fee established by the commissioner.
- (7) Each Internet Web site operator registered pursuant to the section shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner prescribes by administrative regulation or order. All required records shall be:
- (a) Preserved for three (3) years, unless the commissioner, by administrative regulation or order, prescribes otherwise for specified types of records; and
  - (b)
    1. Kept within this state; or
    2. At the request of the commissioner be made available at any time for examination by the department in the principal office of the registrant, or by production of exact copies to the department.
- (8) The commissioner may conduct examinations of any Internet Web site operator registered pursuant to this section:
- (a)
    1. At a date and time specified by the commissioner; and
    2. Within the scope determined by the commissioner;
  - (b) Without prior notice to the Internet Web site operator; and
  - (c) The Internet Web site operator shall pay the reasonable expense attributable to any examination, not to exceed an amount prescribed by the commissioner by administrative regulation.
- (9) If any change occurs that results in an Internet Web site operator no longer meeting the minimum requirements for registration as set forth in this section, the Internet Web site operator shall provide notice of such change to the commissioner as soon as practicable after discovery. Within thirty (30) days of delivery of the notice provided in this subsection, the Internet Web site operator shall, unless otherwise

permitted or directed by the commissioner, cease and desist from operating an Internet Web site operator pursuant to KRS 292.411(1)(r).

- (10) The commissioner may deny, refuse to renew, condition, limit, suspend, or revoke the registration of an Internet Web site operator for any of the grounds set forth in KRS 292.337, which are applicable to a broker-dealer, agent, investment adviser, or investment adviser representative.
- (11) Except as provided in subsection (12) of this section, the commissioner shall not issue an order pursuant to subsection (10) of this section without appropriate notice to the applicant or registrant, opportunity for a hearing, and written findings of fact and conclusions of law in accordance with KRS Chapter 13B.
- (12) The commissioner may take emergency action against an applicant or registrant, in accordance with the provisions set forth in KRS 13B.125, if such action is in the public interest and there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare.

**Effective:** June 24, 2015

**History:** Created 2015 Ky. Acts ch. 24, sec. 2, effective June 24, 2015.

**Legislative Research Commission Note** (6/24/2015). 2015 Ky. Acts ch. 24, sec. 3 provides that this statute and KRS 292.411 created in 2015 Ky. Acts ch. 24, secs. 1 and 2 shall be known and may be referred to as the "Kentucky Intrastate Crowdfunding Exemption."